

Exhibit 13

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1 UNITED STATES DISTRICT COURT
 2 FOR THE EASTERN DISTRICT OF VIRGINIA
 3 ALEXANDRIA DIVISION

4 UNITED STATES OF AMERICA, . Criminal No. 1:01cr455

5 vs. . Alexandria, Virginia
 6 . March 21, 2006
 7 . 10:00 a.m.

8 ZACARIAS MOUSSAOUI,
 9 a/k/a Shaqil, a/k/a
 10 Abu Khalid al Sahrawi,
 11

12 Defendant.
 13 .
 14
 15

16 TRANSCRIPT OF JURY TRIAL
 17 BEFORE THE HONORABLE LEONIE M. BRINKEMA
 18 UNITED STATES DISTRICT JUDGE
 19 VOLUME VII

20 APPEARANCES:

21 FOR THE GOVERNMENT:

22 ROBERT A. SPENCER, AUSA
 23 DAVID J. NOVAK, AUSA
 24 DAVID RASKIN, AUSA
 25 United States Attorney's Office
 2100 Jamieson Avenue
 Alexandria, VA 22314
 and
 JOHN W. VAN LONKHUYZEN, ESQ.
 U.S. Department of Justice
 Counterterrorism Section
 10th and Constitution Avenue, N.W.
 Room 2736
 Washington, D.C. 20530

26 FOR THE DEFENDANT:

27 GERALD THOMAS ZERKIN
 28 KENNETH P. TROCCOLI
 29 ANNE M. CHAPMAN
 30 Assistant Federal Public Defenders
 31 Office of the Federal Public
 32 Defender
 33 1650 King Street
 34 Alexandria, VA 22314

35 COMPUTERIZED TRANSCRIPTION OF STENOGRAPHIC NOTES

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1 THE COURT: I would rather stay on schedule because I
2 think it makes the afternoon too long if we don't stay on the
3 schedule.

4 MR. RASKIN: The government calls Michael Rolince.

5 THE COURT: All right.

6 MICHAEL ROLINCE, GOVERNMENT'S WITNESS, AFFIRMED

7 DIRECT EXAMINATION

8 BY MR. RASKIN:

9 Q. Good afternoon, sir. Can you state your name and spell your
10 last name for the record, please.

11 A. My name is Michael Rolince, R-o-l-i-n-c-e.

12 Q. Now, sir, did you spend literally the entirety of your career
13 working for the FBI?

14 A. 31 years and change.

15 Q. Were you working for the FBI on September 11th, 2001?

16 A. I was.

17 Q. Tell us what your title was, what your job was on that date.

18 A. I was the section chief for the FBI's International Terrorism
19 Operations Section at FBI headquarters.

20 Q. Tell us a little bit about your career at the FBI. When did
21 you start, and tell us briefly what each of the jobs that you have
22 had with the FBI was.

23 A. I started with the FBI right out of college in the fall,
24 September 9th, 1974, working at FBI headquarters as a -- actually,
25 headquarters wasn't built yet. It was an old building down at 2nd

1 and D as a grade 2 clerk.

2 From there I was selected as one of ten to start up the
3 Special Surveillance Group out in San Francisco following mostly
4 Soviets attached to the embassy and other block countries,
5 intelligence officers. From there I went to new agents class in
6 1981, in April of '81, spent 16 weeks at the Academy in Quantico,
7 Virginia, was assigned first office in New Orleans, Louisiana from
8 roughly the fall of '81 to the fall of '83.

9 In 1983 I was transferred to the Washington field office
10 of the FBI where I worked primarily counterintelligence and on
11 espionage matters. In 1985 I was transferred to FBI headquarters
12 again in the Intelligence Division working primarily
13 counterintelligence and espionage matters.

14 In 1986 I was transferred -- I'm sorry, 1988 I was
15 transferred to the Boston Division of the FBI where I ran a
16 counterintelligence and counterterrorism squad that eventually
17 morphed into the Joint Terrorism Task Force.

18 I was promoted to the Number 2 position, assistant
19 special-agent-in-charge, with responsibility initially for
20 counterintelligence, counterterrorism, and had moved over into
21 organized crime, drugs, violent crime, when I received a call from
22 headquarters asking me to come back and be the chief of the
23 International Terrorism Operations Section.

24 I politely declined, and two years later they called and
25 said, "congratulations, you got the job," came down and arrived in

1 Washington, D.C. unfortunately, started the week of August 4th,
2 1998. On Friday, when I was packing by bags to go home, I turned
3 on my television, like we all do when we travel, and saw the sites
4 at Dar-ul-Salam in Nairobi and the bombings of the East African
5 Embassies.

6 From that point for the next three and a half years, we
7 worked Nairobi, Kenya, the Kosovo grave digging operation at the
8 end of that civil war, that strife, the downing of Egypt Air 990
9 off the coast of Nantucket in the winter, followed by the
10 Millennium Conspiracy, and the arrest of Ahmed Ressam, followed
11 ten months later by the attack on the USS Cole where we lost 17
12 brave sailors, followed 11 months later by 9/11.

13 In January of 2002 I was promoted as
14 special-agent-in-charge of the Counterterrorism Division of the
15 Washington field office where I remained until I retired this past
16 October.

17 Q. Tell us, again, what period of time were you the section
18 chief of the International Terrorist Operations Center at
19 headquarters, FBI headquarters?

20 A. From August 4th, 1998 until the first part of January of
21 2002.

22 Q. I am going to ask you a few questions about what FBI
23 headquarters is. Tell us where it is, first.

24 A. It is at the corner of 10th and Pennsylvania, Washington,
25 D.C., Northwest, across the street from the Main Justice building.

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1 Q. And we have referred a couple times to the International
2 Terrorist Operations Center. Is that commonly referred to as
3 ITOS?

4 A. It is.

5 Q. And it is different today than it was before September 11; is
6 that right?

7 A. It is significantly different.

8 Q. Let's talk about ITOS before September 11. Tell us, first,
9 what was the primary responsibility of the ITOS group at FBI
10 headquarters.

11 A. The primary responsibility was to coordinate the
12 counterterrorism investigations being conducted throughout the
13 United States, within the 56 field offices and 400 smaller
14 resident agencies, to coordinate the deployment of FBI agents,
15 support persons, analysts, translators, linguists, et cetera, to
16 these various attack sites and to many other countries wherein
17 Americans were attacked or killed in the years prior to my arrival
18 at headquarters.

19 We managed five separate units, one of which was
20 assigned Iranian and Hizballah matters, Hizballah being a
21 terrorist organization that killed more Americans than any other
22 group combined prior to since September 11th, certainly worth our
23 time and effort and energy to figure out their presence in the
24 United States.

25 The second unit covered Middle Eastern terrorists,

1 Islamic Palestinian rejectionist groups, Palestinian Islamic
2 Jihad, for instance, and, again, serious concern on our part over
3 the support --

4 MR. MAC MAHON: Your Honor, if I may, these are
5 speeches. I can't object. If we get questions and answers, it
6 might be more appropriate.

7 THE COURT: I will sustain the objection, Mr. Raskin.
8 Ask your questions, Mr. Raskin, and, sir, just answer the specific
9 question.

10 THE WITNESS: Yes, Your Honor.

11 BY MR. RASKIN:

12 Q. Mr. Rolince, tell us how many, on September 11, 2001, how
13 many employees were there who were working for ITOS?

14 A. Approximately 82.

15 Q. 82. Now, let's talk about how ITOS was structured. And you
16 began to tell us about the units that existed in ITOS on September
17 11th, 2001. I believe you talked about two of them, Iran
18 Hizballah, Middle East. Tell us what other units existed.

19 A. The remaining units focused on Islamic radical
20 fundamentalists. The next unit focused on Usama Bin Laden and
21 al Qaeda in particular, a unit that was formed in the immediate
22 aftermath of the bombings. There was an administrative unit that
23 did the usual payroll, equipment, things of that nature. And
24 there was an analytical unit comprised of the analysts who worked
25 in support of the aforementioned units.

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1 Q. Now, as section chief of ITOS, it was your responsibility to
2 oversee the units that existed?

3 A. Yes, it was.

4 Q. What positions existed underneath you in those various units?

5 A. Alongside me in what is referred to as the front office was
6 an assistant special -- I'm sorry, an assistant section chief, a
7 position traditionally held by the FBI and the deputy section
8 chief traditionally held by a CIA officer. The units were run by
9 unit chiefs, grade 15 positions, and within those units were grade
10 14 FBI agents, supervisors, analysts, secretaries and other
11 support personnel.

12 Q. Okay. And tell us what your job response -- as section
13 chief, what were your job responsibilities? What was your day's
14 -- what were your days like?

15 A. The days began roughly at 6:30 in the morning, going through
16 all the traffic that came in the night before, followed by a 7:00
17 a.m. meeting chaired by the Assistant Director Dale Watson, and
18 then that meeting would be followed by other meetings throughout
19 the units and throughout the section.

20 I spent a fair amount of time doing coordination
21 activities with my counterparts throughout the community at the
22 White House, the National Security Council, State Departments,
23 Office of Counterterrorism Coordination, spent a great deal of
24 time down at Langley, at CIA headquarters, interfacing with them,
25 at the Pentagon, interfacing with J-34, the force protection

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1 people, special operations, low intensity conflict people, and at
2 meetings at the White House on a fairly regular basis, either
3 there or by way of secure video teleconference.

4 In addition to that, a fair amount of time taken up with
5 visitors from counterpart services throughout the world who would
6 come to the United States for the purpose of working on joint
7 operations or attending conferences or just building the liaison
8 necessary to be able to fight the war with them.

9 THE COURT: All right, Mr. Raskin, it is 12:30. We will
10 take the one hour lunch break and reconvene at 1:30.

11 (Recess from 12:30 p.m., until 1:30 p.m.)
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1 A F T E R N O O N S E S S I O N

2 (Defendant and Jury in.)

3 MR. RASKIN: May I proceed, Your Honor?

4 THE COURT: Yes, sir.

5 MR. RASKIN: Thank you.

6 Q. Mr. Rolince, before the break, we discussed some of the
7 people who worked underneath you in ITOS at FBI headquarters, this
8 again is in the pre-September 11 period.

9 Can you tell us what positions existed above you at FBI
10 headquarters at that time?

11 A. Certainly. Above the position of section chief, there's a
12 deputy assistant director, then an assistant director over the
13 entire Counterterrorism Division, as there is an assistant
14 director over each of the other divisions in the FBI. That person
15 would have been Dale Watson at the time we're speaking of.

16 Above Dale would have been Tom Pickard, who was the
17 deputy director of the FBI, and then for most of my time there,
18 Mr. Louis Freeh was the director. He retired in June of 2001.
19 And on September 11, Mr. Tom Pickard was the acting director of
20 the FBI.

21 Q. Now, apart from headquarters, of course, the FBI has field
22 offices as well; is that correct?

23 A. Yes.

24 Q. How many field offices are there, and tell us what happens at
25 the field offices?

1 A. There are 56 field offices throughout the United States. And
2 belonging to those 56 field offices are 400 smaller what are
3 referred to as resident agencies. In other words, the Tysons
4 Corner resident agency belongs to the Washington field office.

5 Within each field office, there are a number of
6 different programs, counterintelligence, counterterrorism, white
7 color crime, organized crime, violent crime, training, recruiting,
8 etc., broken down by squads. And the squads are run by
9 supervisors who answer up to an assistant special agent in charge,
10 who answers to the special agent in charge.

11 Q. Now, in terms of counterterrorism, what are the biggest or
12 the most significant field offices in, in conducting those types
13 of investigations?

14 A. The New York field office would certainly be considered the
15 largest and most significant, followed in not really priority
16 order but in terms of numbers, Washington field office is the
17 second largest. And there's a significant component within the
18 Los Angeles field office, the Miami field office, and Chicago are
19 the ones that really jump to mind.

20 Q. Now, it was ITOS's responsibility at headquarters to
21 coordinate what was going on in these field offices at least from
22 the counterterrorism perspective. Tell us very briefly how, how
23 that worked.

24 A. Well, there are certain FBI rules and regulations that govern
25 the conduct of investigations, and there are a set of attorney

1 general guidelines that govern as well. In addition, there are
2 other rules and regulations. We'll probably talk a bit about
3 FISA; I know you probably already have.

4 Those packages come into headquarters, are coordinated
5 with headquarters from the field, and that's actually a
6 headquarters supervisor, unlike in a routine Title III, the agent
7 in the field goes and testifies. At headquarters in the FISA
8 court, it's virtually always a headquarters supervisor that
9 testifies, so it has to be a lot of communication back and forth,
10 coordination, etc.

11 THE COURT: Ladies and gentlemen, Title III is an
12 ordinary, old-fashioned wiretap done under court authorization.
13 That's why it's called a Title III.

14 MR. RASKIN: Thank you, Your Honor.

15 Q. Let's talk about information flow in terms of what's
16 happening out in the field. How does information about the
17 investigations that are going on, whether they be intel
18 investigations or criminal investigations, how does that work its
19 way up the chain? In fact, how does it work its way all the way
20 up to your desk as section chief of ITOS?

21 A. It can make its way back in any number of ways. If it's
22 routine information that's being gathered during the course of an
23 investigation, that would be chronicled on any number of different
24 forms, teletype, now in electronic communication, an FD-302, an
25 insert, just different FBI forms, and sent back that way.

1 Depending on the priority, it can be preceded with a
2 telephone call saying: Hey, this is important, it's coming to you
3 via fax, or if it's important enough, get on a plane, come back to
4 headquarters, and talk about it.

5 Q. And, and what is the -- what is the chain at headquarters in
6 terms of information coming to your desk?

7 A. It would come into the, the units that we talked about
8 earlier, depending on what terrorist affiliation the individual in
9 question had. It would come into that particular unit addressed
10 more likely than not to the intelligence operations specialist,
11 IOS, provide tactical support, and to the grade 14 supervisor,
12 perhaps to the attention of the unit chief.

13 And on some communications, based upon the importance of
14 the information contained therein, you would see the listing of
15 individuals all the way up through the section, through the
16 division, and it would usually stop at the assistant director,
17 although every communication that came in on the teletype system
18 and EC just by tradition says "to director FBI." That doesn't
19 mean he gets anywhere near all those tens of thousands of
20 communications that are rolling in every day.

21 Q. Now, what -- once information reaches you, you have to make a
22 decision about whether to pass it on to those above you, right?

23 A. Correct.

24 Q. And what informs that decision on your part?

25 A. Probably first and foremost, time in the FBI. You like to

1 figure you develop a sense of what's important, of what's urgent,
2 what does the -- what do the people above me need to see right
3 now, what can wait until the end of the day, what can wait until
4 tomorrow, and what just isn't ready to go forward yet, because you
5 learn to anticipate the questions that are going to come with this
6 information, and oftentimes you say to yourself, I want to know a
7 little bit more about this before I walk it upstairs, because I'm
8 just going to have to be back up there with answers later on if I
9 don't have them now.

10 Q. Let's also talk a little bit about coordination between the
11 FBI and other agencies that are working on counterterrorism. Tell
12 us what was the principal vehicle through which the FBI
13 coordinated with other agencies in the United States government?

14 A. The principal vehicles, if you will, inside the building
15 would have been the detailees that were assigned to the various
16 units from throughout the intelligence and federal law enforcement
17 community.

18 The principal vehicle outside the building would have
19 been the counterterrorism security group, which is a policy body
20 coordinated out of the White House, run by at the time that I was
21 there an individual named Dick Clarke.

22 Q. Now, let me just go back to detailees. Just tell us in
23 layperson's terms, what's a detailee?

24 A. It's an individual who is still formally assigned to his or
25 her home agency, that can be CIA, a Department of Defense entity,

1 the State Department, the Federal Aviation Administration, Secret
2 Service, etc. Virtually the whole community is represented in
3 this exchange of detailees.

4 They then bring their communications system, their
5 expertise, and their questions into the FBI. And in the event
6 that information relative to a particular threat, if it's on the
7 water, you'd give it to the Coast Guard; it's a threat against the
8 President, you'd get it to the Secret Service rep, etc., etc. So
9 they occupy a full-time position within the Counterterrorism
10 Division, usually attached to a specific unit.

11 Q. And you also mentioned the Counterterrorism Security Group,
12 or CSG, and you said that was run by an individual named Dick
13 Clarke? Where did he work?

14 A. He worked out of the West Wing of the White House.

15 Q. And tell us who other than the FBI was represented on the
16 CSG?

17 A. The traditional core representation would be the FBI, and
18 that could either be myself on international terrorism or a
19 counterpart from domestic terrorism or cyber crimes, etc., or
20 individuals from the Counterintelligence Division, if that was
21 what the particular issue being discussed was about.

22 Then you would have the Terrorism and Violent Crimes
23 Section of the Department of Justice, the Office of Intelligence
24 Policy Review that coordinated, shepherded, and makes decisions on
25 FISAs that do and do not go forward, the Office of

1 Counterterrorism Coordination at the State Department, the CIA,
2 and the other primary component in addition to the National
3 Security Council staff would be the Department of Defense, usually
4 SOLIC, Special Operations Low Intensity Conflict, and J-34, the
5 fourth protection people.

6 If an issue surrounded a topic outside of the purview of
7 those organizations, as I said, on the water, Dick had the
8 authority to bring in the Coast Guard. If it was something to do
9 with aviation, he had the authority to bring in FAA, etc.

10 Q. And were you the FBI's representative on the CSG?

11 A. I was the day-to-day representative on the CSG. If the issue
12 became so important that it needed a decision from higher-level
13 government, then they would convene what was referred to as the
14 deputies, which were generally the No. 2 persons within those
15 entities that I spoke of.

16 And then if a decision was needed by the President or by
17 the Secretary of Defense, State, etc., they would convene what
18 they call the principals, which would be those cabinet-level
19 individuals who ran those agencies.

20 Q. Where did the CSG meet typically?

21 A. In the situation room at the White House.

22 Q. And how often did the CSG meet, let's, you know, in the years
23 2000 and 2001?

24 A. At the White House, I would say at least once a week.

25 Depending on how busy we were, what was going on, it could be

1 three times a day. If it was a 10-minute meeting, it was easier
2 to do by virtual video teleconference. Every one of those
3 entities had a secured video teleconference room, and we could
4 conduct meetings in that forum as well.

5 Q. Without getting into any of the details of sort of what the
6 issues were, tell us briefly how Dick Clarke ran these meetings.

7 A. Dick was the chair, and he would put out an agenda of items
8 that we wanted to talk about, which it took us a while to get to
9 that point, but we streamlined the process. That way everyone had
10 the opportunity to go back into their offices and retrieve the
11 information, if it was on a particular threat, let's say, you
12 would want to go back, pull the cable, read the cable, get some
13 analysis so you could go up to the White House and talk from an
14 informed position.

15 He was strident at times, he could be combative, but he
16 was focusd on the issue of counterterrorism. It was important to
17 him. It was important to all of us who sat at that table.
18 Resources were an issue, technology was an issue, funding was an
19 issue. With that said --

20 MR. MAC MAHON: Your Honor, we're getting into speeches
21 again.

22 THE COURT: I'm going to sustain the objection.

23 BY MR. RASKIN:

24 Q. Mr. Rolince, some questions about how the FBI reacted to
25 terrorist threats prior to September 2001. And let's go back to

1 the 1990s, and give us a sense from, say, 1998 up until September
2 11, 2001, with what frequency did the FBI deal with threats,
3 terrorism threats of any kind?

4 A. On a daily basis, there could be anywhere from 5 to 15 is
5 probably an average number of threats that would come in from any
6 different venue. They could be by virtue of people walking into
7 the office to talk to you, writing it in, sending it in an e-mail,
8 phoning in. It could be sent from intelligence or law enforcement
9 counterparts overseas. So there were a number of different venues
10 from which this information came, but they came routinely and
11 regularly.

12 Q. Now, is it fair to say some of these threats were considered
13 more serious than others?

14 A. Yes, it is.

15 Q. And is it also fair to say that the FBI couldn't devote all
16 of its resources to every one of these threats?

17 A. That's correct.

18 Q. Tell us by what criteria the FBI gauged its response to the
19 various threats.

20 A. What you would be looking for is some specificity -- first
21 and foremost, you'd be looking for the credibility of the source
22 from which the information comes. Is it a person who has an
23 established track record as opposed to the other end of the
24 spectrum, a person who's been a chronic liar in situations like
25 that?

1 You would look for timeliness of the information, is it
2 actionable? Are they telling you about something that's going to
3 happen on a specific date, at a specific time? You're looking for
4 location, what is the target, and you're looking for who are the
5 people that are going to carry out this threat if, in fact, it is
6 going to be carried out.

7 So the more specific the information, the more
8 actionable the intelligence, the more you can do with it.

9 Q. Well, tell us what the word "actionable" means in this
10 context.

11 A. There are three people whom I overheard in the front yard of
12 a building at 123 Porter Street last night talking about
13 kidnapping an individual at the 7-Eleven at the corner of Main and
14 First. There are obviously a number of different things you can
15 do to ferret out that information, identify the people, validate
16 the information, and work the case.

17 Q. And what are the range of options that the FBI has in terms
18 of dealing with threats from sort of the least actionable to the
19 most actionable?

20 A. The range of investigative techniques?

21 Q. Yeah. Well, not necessarily techniques, but in terms of
22 responding as a, as an agency, manpower and resources, what are
23 the range of options that the FBI has?

24 A. Okay. The range before September 11 was, on average, the
25 grade 14 supervisor who received the information pretty much had

1 the authority to determine are we going to work this or aren't we
2 going to work this?

3 If it was a call, an anonymous phone call about the
4 potential hijacking of an El Al airliner next week, hung up the
5 phone, and you never heard back and you weren't able to trace
6 that, then about all you could really do is give that information
7 to the Israeli security officials. On the other hand, if it were,
8 as I said before, more specific and credible --

9 MR. MAC MAHON: Your Honor, if he's going to ask him
10 what "actionable" is, and we get a five-minute answer here, I
11 can't even object when he keeps coming up with hypotheticals and
12 suggestions. It's not evidence, Your Honor.

13 MR. RASKIN: This is a different question, Your Honor.

14 THE COURT: I understand, but a witness's answers have
15 to be relatively succinct, and so I think either you need as the
16 questioner to -- you can't lead, but guide your witness a bit, but
17 the question has to be specific, and I want the answer specific to
18 the question.

19 THE WITNESS: Yes, Your Honor.

20 MR. RASKIN: Understood, Your Honor.

21 Q. Mr. Rolince, going back to December of 1999 --

22 THE COURT: Hold on a second. You were asking for a
23 definition of "actionable." Can you just give us a succinct
24 explanation of what the word "actionable" meant in the
25 pre-September 11 time frame?

1 THE WITNESS: Certainly, Your Honor. Actionable
2 intelligence is information that comes to you and you thereby
3 decide I can do something about this with this. I can take
4 follow-on investigative steps.

5 BY MR. RASKIN:

6 Q. Now, going back to December of 1999, was the FBI dealing with
7 a threat to national security in connection with the upcoming
8 millennium?

9 A. We were.

10 Q. And are you familiar with an individual named Ahmed Ressam?

11 A. I am.

12 Q. R-e-s-s-e-m.

13 Tell us who he is and what happened to him in December
14 of 2000 -- December of 1999.

15 A. I'll try to be as succinct as I can. Ahmed Ressam was an
16 Algerian who came across the border from Canada into Washington,
17 D.C., was stopped at the border by Deanna Dean, a customs
18 official. His car was searched. Explosive components were found
19 in it.

20 Q. And was there -- what was found on his person? Well,
21 withdrawn.

22 Was a telephone number found on his person?

23 A. It was on a slip of paper with the name Ghani.

24 Q. Ghanna, G-h-a-n-n-a?

25 A. G-h-a-n-i, I believe.

1 Q. And tell us what the FBI did in reaction to both the arrest
2 of Mr. Ressam and finding the piece of paper with the phone
3 number.

4 A. Okay. I think just a little bit of context, as a result of
5 the concern about the approaching millennium and attacks on the
6 U.S. and attacks on the cyber infrastructure, there were 22
7 agencies represented in our headquarters in SIOC ready to work
8 that event.

9 When Mr. Ressam came across the border and was arrested,
10 it caused enough concern within the entire intel and law
11 enforcement community that we stood up the operations section --
12 I'm sorry, the Operations Center, put every field office on
13 notice, canceled annual leave for Christmas and New Year's, and
14 brought back in dozens of individuals who had worked prior
15 attacks, because we knew that this was serious and something was
16 going to be attacked had he not been stopped.

17 Q. All right. When the FBI learned about the information on
18 Mr. Ressam's present possession -- in his possession, what did the
19 FBI do in the context you just described?

20 A. The information was tracked back to a telephone number in the
21 New York City area. The New York field office then stood up their
22 Operations Center, went on 24-a-day, seven-day-a-week surveillance
23 targeting that particular individual and ultimately several of his
24 associates.

25 Q. Now, was the New York field office the only field office who

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1 was working on the investigation that resulted from Mr. Ressam's
2 arrest?

3 A. No. All 56 field offices were on the daily conference calls
4 and were working whatever piece of the investigation they might
5 have as it unfolded.

6 Q. Did the FBI ultimately make arrests apart from Mr. Ressam?

7 A. Yes, we did. Several arrests in a few different cities.

8 Q. Okay. Tell us in general terms what steps the FBI took in
9 terms of manpower and in terms of investigative techniques from
10 the time the investigation started to the time that arrests were
11 made.

12 A. The investigative techniques would have included but not be
13 limited to physical surveillance, electronic surveillance. I
14 believe that was the time frame in which we went up on
15 approximately I want to say 30 wires in 20 days. Again, leave was
16 canceled. It was a 24/7 operation. And from those wiretaps, we
17 branched out to identify other individuals in and around the
18 Seattle area, in Canada, Sacramento, New York City, Boston, and
19 ultimately the decision was made to arrest individuals, to conduct
20 searches of houses, because we were concerned that additional
21 explosives could be contained therein.

22 Q. And was this still in the period of December of 1999, before
23 the actual millennium?

24 A. Yes.

25 Q. Are you familiar with the acronym BOLO, B-O-L-O?

1 A. Yes. It stands for be on the lookout.

2 Q. And tell us what that is.

3 A. It's a basic electronic teletype system whereby information
4 relative to a person or a vehicle of interest can be written out
5 and sent to each and every local, state, and federal law
6 enforcement and intelligence component in the United States.

7 Q. And was that mechanism used during the millennium
8 investigation?

9 A. Yes, it was.

10 Q. Tell us how it was used.

11 A. There was a suspicious vehicle which came to be known as the
12 blue van bought under suspicious circumstances in and around the
13 Dallas, Texas area. A BOLO went out to locate that vehicle, and
14 it was next seen in a gas station in Washington, D.C.

15 The assistant director made the decision to send every
16 single one of the 600 agents out on the street to look for this
17 van. It was not found.

18 Move forward to the surveillance of Abdelghani Meskini
19 in New York City. The surveillance team put him in a restaurant.
20 And John O'Neill, the special agent in charge at the time, God
21 rest his soul, called the director and said, that blue van just
22 pulled up in front of the restaurant where Meskini was having
23 dinner. That's how the BOLO was used.

24 Q. Now, did the FBI ultimately learn what the target of
25 Mr. Ressam's plot was?

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1 A. We did. The Los Angeles International Airport.

2 Q. And when the FBI learned that, did the FBI pass that
3 information to the Federal Aviation Administration?

4 A. Yes, we did.

5 Q. Now, we talked a little bit about threat reporting before.

6 Describe the nature of the terrorist threat reporting that the FBI
7 was receiving in the summer of 2001.

8 A. In the late spring and early summer of 2001, just by virtue
9 of sheer numbers alone, Dick Clarke made the decision that we're
10 spending an inordinate amount of time having to get through each
11 and every one of these, so he decided to hold on Monday,
12 Wednesday, and Friday, in the afternoon, a video teleconference
13 SVTS, the secure system we talked about, just because the volume
14 was as significant as it was.

15 Q. What does SVTS stand for?

16 A. Secure --

17 Q. Video teleconference?

18 A. -- video teleconference system.

19 Q. Now, was part of that threat reporting threats to attack
20 United States interests from Usama Bin Laden and al Qaeda?

21 A. Yes, it was.

22 Q. And just tell us generally what you remember about those
23 threats.

24 A. Taken in sum total, the threats covered about every area that
25 one could possibly conceive, from the traditional truck bomb, to

1 the use of chemical, radiological, biological, nuclear, to
2 kidnappings, to assassinations, and on some occasions they
3 surrounded the civil aviation industry. I think that was on three
4 occasions out of the thousand something.

5 Generally speaking, the vast majority of the threats
6 were targeted against U.S. persons or U.S. interests overseas.

7 Q. And going back to that period of time, what was the
8 intelligence value of the information that constituted this threat
9 reporting in the summer of 2001?

10 MR. MAC MAHON: Objection, Your Honor. That's an
11 awfully broad statement. He said, I think, a thousand threats,
12 and it's awfully broad.

13 THE COURT: Well, it's broad, but I think we need some
14 background. And I'll certainly give you plenty of leeway to probe
15 it on cross, so I'll overrule that objection.

16 MR. RASKIN: In fact, Your Honor, the parties have
17 entered into a stipulation regarding sort of the general nature of
18 the threat, and I would offer that stipulation now.

19 THE COURT: All right, why don't you --

20 MR. RASKIN: It's ST-3.

21 MR. MAC MAHON: No objection, Your Honor.

22 THE COURT: All right. Do you want to publish it to the
23 jury?

24 MR. RASKIN: And I think that's the best thing to do,
25 yes.

1 THE COURT: That's in.

2 (Government Exhibit No. ST-3 was received in evidence.)

3 MR. RASKIN: With the Court's permission, I'll read from
4 Government Exhibit ST-3.

5 "No. 1: On February 6, 2001, a Senior Executive
6 Intelligence Brief, also known as an SEIB, indicated a heightened
7 threat of Sunni extremist terrorist attacks, particularly in the
8 Middle East and Europe, against United States facilities,
9 personnel, and other interests, and stated that this new reporting
10 on the planned Sunni attacks represented the most significant
11 spike in threat reporting concerning this group since the time of
12 the millennium.

13 "In March and April 2001, the Central Intelligence
14 Agency disseminated a series of reports warning that Abu Zubaydah
15 was planning an operation in the near future. One report cited a
16 source indicating that Abu Zubaydah was planning an attack in a
17 country that CIA analysts thought might be Israel, or perhaps
18 Saudi Arabia or India. Abu Zubaydah was an al Qaeda member and a
19 major figure in the millennium plots.

20 "On April 13, 2001, the Federal Bureau of Investigation
21 sent an all-office message summarizing the intelligence reporting
22 to date on the Sunni extremist threat. The message did not
23 mention a domestic threat.

24 "On April 20, 2001, a SEIB indicated that Usama Bin
25 Laden was planning multiple operations.

1 "On May 3, 2001, a SEIB indicated that Usama Bin
2 Laden's 'public profile may pressage attack.'

3 "On May 23, 2001, a SEIB reported a possible hostage
4 plot against Americans abroad to force the release of prisoners,
5 including Sheikh Omar Abdel Rahman, otherwise known as the Blind
6 Sheikh, who was serving a life sentence for his role in the 1993
7 plot to blow up landmarks in New York City. The reporting noted
8 that operatives might opt to hijack an aircraft or storm a United
9 States embassy abroad.

10 "On May 26, 2001, a SEIB indicated that Usama Bin
11 Laden's network's plans were advancing.

12 "Threat reports surged in June and July of 2001,
13 reaching an even higher peak of urgency. The summer threats
14 seemed to be focused on Saudi Arabia, Israel, Bahrain, Kuwait,
15 Yemen, and possibly Rome, but the danger could be anywhere --
16 including a possible attack on the G-8 Summit in Genoa.

17 "On June 12, 2001, a CIA report passing along
18 biographical information on several terrorists mentioned, in
19 commenting on Khalid Sheikh Mohammed, that he was recruiting
20 people to travel to the United States to meet with colleagues
21 already there so that they might conduct terrorist attacks on
22 Usama Bin Laden's behalf.

23 "On June 21, 2001, United States Central Command raised
24 the force protection condition level for the United States troops
25 in six countries to the highest possible level, Delta. The United

1 States Fifth Fleet moved out of its port in Bahrain, and a United
2 States Marine Corps exercise in Jordan was halted. United States
3 embassies in the Persian Gulf conducted an emergency security
4 review, and the embassy in Yemen was closed.

5 "On June 22, 2001, the CIA notified all its station
6 chiefs around the world about intelligence, suggesting a possible
7 al Qaeda suicide attack on a United States target over the next
8 few days. The same day, the State Department notified all
9 embassies of the terrorist threat and updated its worldwide public
10 warning.

11 "In late June 2001, a CIA terrorist threat advisory
12 indicated a high probability of near-term 'spectacular' terrorist
13 attacks resulting in numerous casualties. On June 23, 2001, the
14 title of a SEIB warned, 'Bin Laden Attacks May Be Imminent.' On
15 June 25, 2001, an SEIB titled 'Bin Laden and Associates Making
16 Near-Term Threats' reported that multiple attacks were being
17 planned by Bin Laden and his associates over the coming days,
18 including a 'severe blow' against United States and
19 Israeli 'interests,' during the next two weeks. Also on June 25,
20 2001, an Arabic television station reported Bin Laden's pleasure
21 with al Qaeda leaders who were saying that the next few
22 weeks 'will witness important surprises,' and that United States
23 and Israeli interests will be targeted. At the end of June 2001,
24 an al Qaeda intelligence report warned that something 'very, very,
25 very, very' big was about to happen, and most of Bin Laden's

1 network was reportedly anticipating the attack.

2 "On June 30, 2001, a SEIB titled 'Bin Laden Planning
3 High-Profile Attacks' reported that Bin Laden operatives expected
4 near-term attacks to have dramatic consequences of catastrophic
5 proportions. The SEIB contained an article titled 'Bin Laden
6 Threats Are Real.'

7 "The intelligence reporting at the end of June
8 consistently described the upcoming attacks as occurring on a
9 calamitous level, indicating that they would cause the world to be
10 in turmoil and that they would consist possibly of multiple -- but
11 not necessarily simultaneous -- attacks.

12 "On July 2, 2001, a SEIB indicated that the planning for
13 Usama Bin Laden's attacks continued, despite delays.

14 "Also on June 2, 2001, the FBI issued a National Law
15 Enforcement Telecommunications, also known as NLETS, message
16 concerning potential anti-United States terrorist attacks. The
17 message summarized the information regarding the threats from Bin
18 Laden and warned that there was an increased volume of threat
19 reporting. The message indicated a potential for attacks against
20 the United States targets abroad from groups 'aligned or
21 sympathetic to Usama Bin Laden.' The message further stated, 'The
22 FBI has no information indicating a credible threat of terrorist
23 attack in the United States.' The message asked recipients
24 to 'exercise extreme vigilance' and 'report suspicious activities'
25 to the FBI.

1 "On July 5, 2001, the CIA briefed the Attorney General
2 on the al Qaeda threat, warning that a significant attack was
3 imminent. In addition, the Attorney General was told by the CIA
4 that preparations for multiple attacks were in late stages or
5 already complete and that little warning could be expected. The
6 briefing addressed only threats outside United States.

7 "Also on July 5, 2001, the CIA briefed representatives
8 of the Immigration and Naturalization Service, the Federal
9 Aviation Administration, the Coast Guard, the Secret Service, and
10 Customs, on the current threat at a video teleconference convened
11 by the Counterterrorism Security Group.

12 "On July 13, 2001, a SEIB indicated that Usama Bin
13 Laden's plans had been delayed maybe for as long as two months,
14 but not abandoned.

15 "On July 19, 2001, one of the items mentioned by the
16 Acting FBI Director in a conference call with his special agents
17 in charge, was the need, in light of increased threat reporting,
18 to have evidence response teams ready to move at a moment's
19 notice, in case of an attack. The Acting Director did not task
20 FBI field offices to try to determine whether any plots were being
21 considered within the United States or to take any action to
22 disrupt any such plots.

23 "On July 25, 2001, a SEIB stated that one Bin Laden
24 operation was delayed but that others were ongoing.

25 "On August 1, 2001, the FBI issued an advisory that in

1 light of the increased volume of threat reporting and the upcoming
2 anniversary of the bombings of the United States embassies in East
3 Africa, (which occurred on August 7, 1998), increased attention
4 should be paid to security planning. The advisory noted that
5 while most of the reporting indicated that the potential for
6 attacks were on United States interests abroad, the possibility of
7 an attack in the United States could not be discounted.

8 "On August 3, 2001, the CIA issued an advisory
9 concluding that the threat of impending al Qaeda attacks would
10 likely continue indefinitely. Citing threats in the Arabian
11 Peninsula, Jordan, Israel, and Europe, the advisory suggested that
12 al Qaeda was lying in wait and searching for gaps in security
13 before moving forward with the planned attacks.

14 "An article in the August 6, 2001 Presidential Daily
15 Brief, also known as a PDB, titled 'Bin Laden Determined to Strike
16 in U.S.,' and the 36th PDB item in 2001 relating to Bin Laden or
17 al Qaeda and the first devoted to the possibility of an attack in
18 the United States.

19 "On August 7, 2001, a SEIB indicated that Usama Bin
20 Laden was determined to strike in the United States.

21 "On August 23, 2001, Director of Central Intelligence
22 George Tenet received a briefing on Zacarias Moussaoui
23 titled 'Islamic Extremist Learns to Fly.'

24 And finally, "On August 24, 2001, a foreign intelligence
25 service reported that Abu Zubaydah was considering mounting

1 terrorist attacks in the United States to attack targets in the
2 United States."

3 Q. Mr. Rolince, do you recall receiving threat reporting as
4 your -- in your position at ITOS in accord with what I just read?

5 A. Yes, I do.

6 Q. And tell us what was going on at the FBI and the CSG to deal
7 with the threat -- the reporting of threats that we just heard in
8 court.

9 A. Again, the meetings were taking place now three times a week
10 instead of just at once a week, and those meetings surrounded just
11 the threat reporting. The field offices were put on notice, even
12 though the vast majority of prior attacks and the vast majority of
13 threats dealt with overseas, we learned from the original World
14 Trade Center and Oklahoma City that we certainly were vulnerable
15 in the United States, which is one reason that at that time there
16 were approximately 3,000 international terrorism cases being
17 worked, so that we could get a handle on what the threat was and
18 was not.

19 Q. Now, after September 11, you became familiar, as we all did,
20 with two individuals named Khalid al-Midhar and Nawaf al-Hazmi; is
21 that correct?

22 A. Correct.

23 Q. And after September 11, you learned that the FBI had received
24 information about these two individuals and their presence in the
25 United States?

1 A. Yes.

2 Q. Prior to September 11, 2001, what did you know personally
3 about those two individuals?

4 A. I had no information prior to September 11 on either one.

5 Q. Now, have you -- you, of course, have become familiar with
6 the defendant in this case, Mr. Moussaoui, have you not?

7 A. I have.

8 Q. Prior to -- well, withdrawn.

9 Did you become aware prior to September 11 that
10 Mr. Moussaoui was arrested in Minnesota in August of 2001?

11 A. Yes.

12 Q. How did you become aware of that?

13 A. My unit chief, David Frasca, approached me on two different
14 occasions in what I've referred to as hallway conversations that
15 an individual had, in fact, been reported by a flight school. The
16 FBI dispatched an agent and an Immigration and Naturalization
17 Service detailee from the office. They went out and interviewed
18 Mr. Moussaoui, thought that the answers didn't add up, and
19 although the FBI did not possess sufficient information to levy a
20 charge, he was arrested on immigration charges.

21 Q. All right. Now, tell us what position David Frasca worked in
22 at the time.

23 A. At the time, he was the unit chief in the Islamic Radical
24 Fundamentalist Unit.

25 Q. Okay. And tell us where you were when you had the first

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1 conversation with Dave Frasca.

2 A. Walking between my office and a SVTS, or another meeting in
3 the general direction of SIAC is what I remember.

4 Q. How long was your conversation with Frasca, the first
5 conversation?

6 A. 20 seconds.

7 Q. Tell us exactly what he said and exactly what you said to the
8 extent you can remember.

9 A. That the Minneapolis field office, in conjunction with INS,
10 had interviewed an individual based on a call from a flight
11 school. The answers he gave to questions did not add up. He was
12 found to be in violation of his -- I think his visa was out of
13 order, if I recall correctly, and he was arrested on immigration
14 charges.

15 Q. Now, did he say why he was bringing this information to your
16 attention?

17 A. There was an ongoing debate and issue, they were trying -- at
18 that point in time, things weren't adding up, but at least the
19 immediate threat if there was one was neutralized in their eyes,
20 and Mr. Moussaoui had given authority to search some things but
21 not everything. And the Minneapolis field office wanted to apply
22 for a FISA in order to be able to search what I believe was a
23 computer and a notebook.

24 Q. And did he tell you whether the Minneapolis office was given
25 that authority?

1 A. At that -- I think at the first conversation, a determination
2 had not been made, and some logical leads were going to be
3 covered, but ultimately it became an issue, and he was giving me
4 what's referred to as a heads-up. We can't resolve it at the unit
5 level. We have the appropriate Office of General Counsel
6 attorneys engaged in the conversation, and you'll be getting a
7 phone call from Minneapolis, which is not an unusual occurrence.

8 Q. You said it's not an unusual occurrence. What do you mean by
9 that?

10 A. On any given day, there are probably dozens of FISAs,
11 applications, potential cases wherein the dialogue between the
12 field and headquarters, headquarters and the Department of
13 Justice, or all three of them in a conference call or a physical
14 visit are debating the merits of whether you are or aren't at the
15 threshold of having probable cause for a FISA.

16 Q. All right. You said that you also had another conversation
17 with Mr. Frasca, this again is before September 11, regarding the
18 defendant in this case. Tell us what that conversation was.

19 A. The last and final, it may have been broken into two halves.
20 Minneapolis requested authority to travel with the defendant when
21 he was being deported in hopes of soliciting either his authority
22 to do a search or just additional relevant information. And there
23 was a concern over the merits of that travel, i.e., what were the
24 odds that it was going to be successful. Ultimately, the decision
25 was taken that they could, in fact, travel.

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1 Q. All right. And when you say "they," are you talking about
2 the agent in Minneapolis?

3 A. Minneapolis agents, yes.

4 Q. And who made that decision that gave them permission to do
5 that?

6 A. I did.

7 Q. Other than the two conversations that you just told us about
8 with Mr. Frasca, did you have any other conversations before
9 September 11 regarding Mr. Moussaoui with other employees of the
10 FBI at the ITOS section?

11 A. The FBI detailee to the CIA at the time, in conjunction with
12 the unit and Minneapolis and a foreign counterpart service,
13 decided that it would be worthwhile to utilize that service
14 overseas in an attempt to secure the information contained in the
15 computer and the notebook upon the defendant's arrival in that
16 country.

17 Q. Now, you had conversations about Mr. Moussaoui after
18 September 11, did you not?

19 A. Yes.

20 Q. And you participated in a meeting with some folks from
21 headquarters and the folks from out in Minneapolis on the search
22 warrant issue after September 11, did you not?

23 A. I did.

24 Q. And do you remember when that was?

25 A. Either the last week of October or the first week of November

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1 of 2001.

2 Q. All right. Is it fair to say that that meeting or the
3 subject of that meeting was whether or not a search warrant should
4 have been issued?

5 A. Yes.

6 MR. MAC MAHON: Your Honor, objection to what happened
7 after September 11 with relevance to Mr. Moussaoui's case.

8 THE COURT: I'm going to sustain the objection.

9 MR. RASKIN: That's fine. I'll move on, Your Honor.

10 Q. Mr. Rolince, are you familiar with a document called the --
11 called a Statement of Facts that the defendant adopted at his
12 guilty plea in this case?

13 A. Yes, I am.

14 MR. RASKIN: And if we could bring up -- well, hold on
15 one second.

16 MR. MAC MAHON: Your Honor, I object if we're using the
17 Statement of Facts to a witness who wasn't even involved in the
18 investigation other than for 20 seconds. It's just another
19 opportunity to put it up again.

20 THE COURT: I'm going to sustain that objection.

21 BY MR. RASKIN:

22 Q. Let me ask this: Have you reviewed the Statement of Facts?

23 A. I have.

24 Q. Have you been asked to assess the Statement of Facts in terms
25 of its intelligence value?

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1 A. Yes.

2 MR. MAC MAHON: Same objection, Your Honor. It doesn't
3 matter what he assessed afterwards.

4 THE COURT: I think this is the wrong witness to be
5 asking that questions of, since as I understand the previous
6 testimony, this witness had nothing to do with any of the decision
7 making that was subject to the earlier portions of the FBI
8 testimony.

9 MR. RASKIN: Can we approach, Your Honor?

10 THE COURT: Yes.

11 MR. RASKIN: Thank you.

12 (Bench conference on the record.)

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Anneliese J. Thomson
(703) 299-8595

Electronically signed by Anneliese Thomson (501-170-180-8434)

Karen Brynteson
(703) 768-8122

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(End of bench conference.)

THE COURT: I'm told we need to take a short break.
We'll be in a ten-minute recess.

(Recess from 2:20 p.m., until 2:28 p.m.)

(Defendant and Jury in.)

MR. RASKIN: May I, Your Honor?

THE COURT: Yes, sir.

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1 BY MR. RASKIN:

2 Q. Mr. Rolince, you are familiar that the defendant,
3 Mr. Moussaoui, pleaded guilty in this case?

4 A. I am.

5 Q. Are you also familiar with the fact that in connection with
6 his guilty plea, he admitted that he was a member of al Qaeda?

7 A. I am.

8 Q. Going back to the threat environment in the summer of 2001,
9 what effect would it have had on the FBI and what could the FBI
10 have done from an investigative perspective if the FBI --

11 MR. MAC MAHON: Objection to the form of the question,
12 Your Honor.

13 THE COURT: All right. Now, I have ruled that there is
14 a significant distinction between saying somebody would have done
15 something and could have. I've limited the government in how it's
16 to approach this issue, so the question was not properly phrased.
17 I'll sustain the objection.

18 BY MR. RASKIN:

19 Q. In the summer of 2001, or more specifically in August of
20 2001, what could the FBI have done with the information that
21 Mr. Moussaoui was an al Qaeda member arrested in a flight
22 simulator in Minnesota?

23 A. It's just as background, unlike any information that I'm
24 aware receiving in that time frame --

25 MR. MAC MAHON: Your Honor, objection. It's not a

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1 question that calls for background.

2 THE COURT: Yeah. Agent Rolince, you have to be able to
3 answer the specific question, but I think also -- are we having a
4 problem with the sound system?

5 THE REPORTER: Yes.

6 THE COURT: Let's try it now.

7 THE WITNESS: Test. Fine, Your Honor.

8 THE COURT: Yeah? Thank you.

9 MR. RASKIN: I think there was a question pending, but
10 I'm going to withdraw it, and I'm going to ask actually a few
11 questions.

12 Q. You're aware that the defendant admitted he was a member of
13 al Qaeda when he pled guilty in this case?

14 A. I am.

15 Q. You're also aware that he was a participant in a plot to fly
16 airplanes into prominent United States buildings in the United
17 States, are you not?

18 A. I am.

19 Q. And are you aware that he was arrested in a flight simulator?

20 A. I am.

21 Q. Are you aware that in connection with his guilty plea, he
22 said that the plot involved other individuals who were also taking
23 flight training similar to the defendant?

24 A. Yes.

25 Q. Taking that information as a whole, what could the FBI have

1 done in terms of investigatory steps if it had received that
2 information in August of 2001?

3 A. I believe the first step would be, well, asking the field to
4 vet that information by virtue of follow-on interrogation,
5 interview, perhaps polygraph examination simultaneously in
6 Washington. There would be a -- there could be a request for the
7 convening by Dick Clarke of the National Security Council CSG so
8 that that information in its totality could be spread to all those
9 partner agencies, in addition to FAA would certainly have been
10 brought in for that meeting.

11 Q. What manpower options could have -- or what manpower options
12 could have been available to the FBI in response to that threat?

13 A. Significant agent analysts, translator support, up to and
14 including the same numbers that were used for the millennium, the
15 USS Cole, the African Embassy bombings, virtually the limit would
16 have been 11,300 agents.

17 Q. What -- apart from the facts that the defendant admitted in
18 his guilty plea, what steps could the FBI have taken to get more
19 information regarding this threat?

20 A. A visit not only to that particular flight school but a
21 review of all information within the defendant's possession would
22 follow, those leads similar to a guy with a phone number on a
23 piece of paper would all be sent out to whatever field office
24 covered that particular area. In addition, whatever funds were
25 utilized to purchase tickets, travel, hotels, motels, the bank

1 records would be asked for, subpoenaed.

2 MR. MAC MAHON: Your Honor, I object to this. He keeps
3 using the word "would" as if it was something they actually would
4 have done as opposed to could, which is in accordance with the
5 rules.

6 MR. RASKIN: Object to Mr. MacMahon's speech.

7 THE COURT: Look, this is a very difficult line. I'll
8 make sure the jury has clear instructions on this. But again,
9 Ladies and Gentlemen, as I told you even when we were doing the
10 voir dire process, juries cannot decide cases based on
11 speculation. They have to have facts to support their conclusion.
12 And we're not going to get into speculating about what would have
13 happened.

14 But people who were on the ground working in the field
15 as professionals can talk about the types of investigative
16 techniques they had available and what they could have done with
17 certain information. They can't say, because nobody knows, what
18 would have happened, all right? Let's move on.

19 BY MR. RASKIN:

20 Q. The threat that Mr. Moussaoui described or the facts that
21 Mr. Moussaoui described in pleading guilty, please compare that to
22 the threat reporting that the United States government was
23 receiving in the summer of 2001.

24 MR. MAC MAHON: Your Honor, I don't know how he would be
25 able to compare a threat report. We just read a stipulation. The

1 jury's gotten the Statement of Facts. It's just a chance to
2 regurgitate it.

3 THE COURT: I'm going to sustain the question. You may
4 rephrase the question. I think there's a better way of getting
5 around that.

6 BY MR. RASKIN:

7 Q. You talked to us before about specificity and actionability
8 of threat information that the FBI receives, correct?

9 A. Yes.

10 Q. And remind us why that is important.

11 A. It's important because it gives you a first step to be
12 followed by logical investigative steps that could be taken.

13 Q. With respect to facts admitted to by Mr. Moussaoui when he
14 pled guilty, tell us what -- assess that information in terms of
15 its specificity and in terms of its actionability.

16 A. It's specific in terms of subject, it's specific in terms of
17 target, it's specific in terms of methodology, and it's specific
18 in terms of other conspirators actually being in the United
19 States, so there are a number of areas that you could go down and
20 conduct very logical follow-on investigation to vet that and
21 hopefully thwart that.

22 Q. Using that same criteria, Mr. Rolince, can you assess the
23 intelligence value of the threat reporting that the United States
24 government was receiving in the summer of 2001?

25 A. That reporting, as articulated on the document we reviewed,

1 had some specificity in terms of possibly Israel, possibly Saudi
2 Arabia, possibly the next month, but I don't recall it being much
3 more than that.

4 MR. RASKIN: If we could bring up Government Exhibit
5 OK-1011, please? It's in evidence, Your Honor.

6 THE COURT: Yes, sir.

7 MR. MAC MAHON: Your Honor, before he shows this to this
8 witness, he can't start showing this witness exhibits that were
9 uncovered in the investigation. We've got an agent who's going to
10 testify to that.

11 THE COURT: Well, we're not going to hear it twice, that
12 is true, so you can choose which witness you want to use for that.

13 MR. RASKIN: Thank you, Your Honor.

14 THE COURT: All right. I'll sustain the objection.

15 MR. RASKIN: Nothing further at this time, Your Honor.

16 THE COURT: All right. Mr. MacMahon, are you ready?

17 MR. MAC MAHON: Yes, Your Honor.

18 CROSS-EXAMINATION

19 BY MR. MAC MAHON:

20 Q. Mr. Rolince, you were in charge of the International
21 Terrorism Operating Section; is that right?

22 A. Operations Section, yes.

23 Q. And nobody in the summer of 2001 told you a thing about Nawaf
24 al-Hazmi or Khalid al-Midhar, right?

25 A. That's correct.

1 Q. Two known al Qaeda terrorists who were in our country, and
2 you as the head of it didn't hear a thing about it, right?

3 MR. RASKIN: Objection to the oral argument.

4 THE COURT: Well, it is cross-examination, so you can
5 lead, but I don't -- I agree that you should not argue the case.
6 So I'll sustain the objection.

7 BY MR. MAC MAHON:

8 Q. Mr. Rolince, you -- you learned that the CIA had substantial
9 information on Nawaf al-Hazmi and Khalid al-Midhar and their
10 terrorist connections, right?

11 A. I learned that there was information available to them. I
12 would not characterize it as substantial.

13 Q. How many cables?

14 A. I don't know how many cables.

15 Q. You don't have any idea, do you?

16 A. How many cables from the CIA, from elsewhere, from the FBI?

17 Q. Well, how many other al Qaeda members, known al Qaeda members
18 in the summer of 2001 did the government know were walking around
19 the United States unmolested?

20 MR. RASKIN: Same objection. Argumentative.

21 THE COURT: I think "unmolested" is a slightly loaded
22 term.

23 MR. MAC MAHON: Excuse me, Your Honor.

24 THE COURT: I'll sustain the objection.

25 (Laughter.)

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1 MR. MAC MAHON: Not being watched by the FBI.

2 BY MR. MAC MAHON:

3 Q. How many other known al Qaeda members were walking around our
4 country not being watched by the FBI in that time frame?

5 MR. RASKIN: Objection to the characterization or
6 mischaracterization, Your Honor.

7 THE COURT: A little less editorializing, Mr. MacMahon.
8 But the question, the substance of the question is a legitimate
9 substance.

10 THE WITNESS: There clearly were al Qaeda operatives in
11 the United States in the summer of 2001 about whom we were
12 unaware.

13 BY MR. MAC MAHON:

14 Q. Were there al Qaeda operatives in the United States that you
15 were aware of?

16 A. There are any number of classified investigations being
17 conducted on persons we believed to have some connection to
18 al Qaeda, yes.

19 Q. In the summer of 2001, how many ongoing investigations were
20 there of known al Qaeda members in the United States of America?

21 A. I don't have the exact number.

22 Q. Were you involved in preparing the August 6 PDB?

23 A. No, I was not.

24 Q. Have you ever seen it?

25 A. No, I don't believe I have.

1 MR. MAC MAHON: Could we put up Exhibit 901, please?
2 This was mentioned in the stipulation that we just went through,
3 Your Honor.

4 THE COURT: Is it a defense or a government exhibit?

5 MR. MAC MAHON: It's a Defense Exhibit 901, but this is
6 the document that was referenced in the stipulation, paragraph No.
7 24.

8 MR. RASKIN: Before the document is put up, could we
9 establish a foundation as to whether the witness is going to be
10 able to testify about it?

11 MR. MAC MAHON: I think the document is in, Your Honor.

12 THE COURT: It's not formally in evidence. You're
13 saying it's referenced in the stipulation?

14 MR. MAC MAHON: Yes, and I would move it in. If it's
15 been stipulated that that was a document, it should come in.

16 MR. RASKIN: That's not part of the stipulation.

17 MR. MAC MAHON: Read paragraph 24, Your Honor. "An
18 article in the August 6, 2001, Presidential Daily Briefing titled
19 'Bin Laden Determined to Strike in the United States.'" That's
20 the exact document we're talking about right here.

21 MR. RASKIN: We can talk about, we can talk about the
22 foundation, but this witness doesn't have anything --

23 THE COURT: Whoa, let's show it to the witness first to
24 see whether he's seen it or not.

25 THE WITNESS: Thank you.

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1 Okay.

2 BY MR. MAC MAHON:

3 Q. Have you seen that before?

4 A. I've seen information contained in here before, but at the
5 section chief level, you do not get routine disseminations of
6 presidential daily briefs, no.

7 Q. Did you get the senior executive intelligence briefs?

8 A. No.

9 Q. Did you know in early August of 2001 that the President
10 received a briefing titled "Bin Laden Determined to Strike in the
11 U.S."?

12 A. No.

13 Q. Did you know in that time frame that the President was being
14 told that Bin Laden wanted to hijack a U.S. aircraft to obtain the
15 release of the Blind Sheikh?

16 A. That threat reporting sounds familiar, and I don't discount
17 that it's the kind of thing that would be brought to the
18 President's attention.

19 Q. Okay. You received a lot of information before 9/11 of plans
20 by al Qaeda to hijack American airplanes, didn't you?

21 A. No.

22 Q. No information at all?

23 A. I didn't say "no information."

24 Q. How much did you get?

25 A. In the 1,000-plus threats that came in at the secret and

1 below level between January 1 and September 11, to the best of my
2 recollection, 3 percent had the words airport, airplane, or
3 airline in them; 97 percent spoke of traditional attacks. The
4 three that spoke of airplanes, in hindsight, going back and
5 looking at them thoroughly after 9/11, had nothing to do with
6 9/11.

7 Q. But you were receiving information about threats to hijack
8 aircraft, that's a fact, isn't it, by Muslim fundamentalists
9 affiliated with Usama Bin Laden?

10 A. I can recall one or two instances relative to the southern
11 tip of Africa and the potential to hijack aircrafts.

12 Q. Okay. So you didn't, you didn't give -- prepare information
13 telling the President on August 6 that FBI information indicates
14 patterns of suspicious activity consistent with the preparations
15 for hijackings, right?

16 MR. RASKIN: Objection. Asked and answered.

17 THE COURT: Well, this is a slightly different question.
18 This is about whether or not this witness was involved in
19 preparing information. I'm going to permit that. So overruled.

20 THE WITNESS: I'm aware of a conversation between an
21 analyst who wrote that sentence and an analyst in FBI
22 headquarters. And for the life of me, I don't know what activity
23 consistent with preparations for hijackings would be, based on
24 that conversation.

25 BY MR. MAC MAHON:

1 Q. Did the FBI mislead the President of the United States in
2 August of 2001, Mr. Rolince?

3 A. The FBI doesn't prepare the presidential daily brief.

4 Q. Well, it says that the information comes from the FBI on the
5 brief, doesn't it?

6 A. That is inaccurate information, that sentence.

7 Q. So that was inaccurate. Whoever did it made a mistake?

8 A. Absolutely.

9 Q. Okay. And it also says in here that the FBI is conducting 70
10 full field investigations that are Usama Bin Laden-related?

11 MR. RASKIN: Objection, Your Honor, to the "it says
12 here."

13 MR. MAC MAHON: Well, I'm happy to publish it to the
14 jury, Your Honor.

15 MR. RASKIN: He's reading to the jury.

16 THE COURT: Well, we don't have a foundation for it yet
17 to go in.

18 MR. MAC MAHON: It's mentioned in the stipulation. I
19 can't get the President to come in and authenticate it, Your
20 Honor, and that's why we have a stipulation as to this.

21 MR. RASKIN: We don't have a stipulation as to this
22 document. If Mr. MacMahon would like to discuss that with us,
23 we'd be happy to.

24 THE COURT: Let's move this examination along. I'll
25 revisit this issue.

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1 MR. MAC MAHON: Thank you, Your Honor.

2 Q. So, Mr. Rolince, were there 70 full field investigations that
3 were Bin Laden-related in the United States in August of 2001?

4 A. I believe that's an accurate number.

5 Q. Okay. And in the stipulation that Mr. Raskin -- all of those
6 investigations were receiving all the proper attention that they
7 needed, right?

8 A. That they should have been receiving the proper attention,
9 absolutely.

10 Q. Okay. And the, the stipulation that we looked at, that
11 Mr. Raskin read into evidence, there was an issue about a possible
12 attack on the G-8 Summit in Genoa, right?

13 A. Yes, sir.

14 Q. You remember that, don't you?

15 A. I do.

16 Q. And one of the threats that was against the Genoa Summit was
17 that Muslim fundamentalists would hijack a plane and fly it into
18 where all the leaders were meeting, correct?

19 A. That was one of the dozens of threats to the Genoa Summit.

20 Q. All right. And in response to that threat, the air space
21 around Genoa, Italy, was closed to all aircraft while the
22 President was there; isn't that correct?

23 A. I believe that's correct.

24 Q. So the -- at least by June or July of 2001, you were well
25 aware, the FBI was well aware that Muslim fundamentalists might

1 use planes as weapons, right?

2 A. I was aware that there were threats to hijack airplanes
3 throughout the world, and they had used planes in a number of
4 different instances or had talked about it, yes.

5 Q. All right. And you knew they were -- one of the plans was to
6 fly the plane into the building where the President was meeting
7 with the G-8 leaders in Genoa, right?

8 A. I don't have it with that specificity. I remember they
9 talked about attacking the summit.

10 Q. Okay. Why was the air space closed then?

11 A. Out of an abundance of caution.

12 Q. To prohibit someone from hijacking a plane and crashing it
13 into the building, right?

14 A. Closing air space doesn't guarantee, as we've seen with the
15 Capitol, that planes won't get through that closure on a very
16 regular basis.

17 Q. That was the idea, wasn't it, Mr. Rolince?

18 A. I couldn't tell what their idea was.

19 Q. And then in June of 2001, you learned that there was
20 reporting that Khalid Sheikh Mohammed was recruiting people to
21 travel to the United States, right?

22 A. That piece of intelligence was out there.

23 Q. Yeah. You knew that, didn't you? In June of 2001, you knew
24 that, didn't you?

25 A. We assumed that al Qaeda and in particular, after the

1 original World Trade Center, would make a consistent effort to put
2 people in the United States, sure. It wasn't June of 2001. It
3 was probably post the first World Trade Center attack.

4 Q. And so the FBI after that made every effort to keep out
5 al Qaeda members, right?

6 A. Within the law, absolutely.

7 Q. All right. And President Clinton issued an order saying that
8 they would be not allowed to come to the United States, right?

9 A. I don't recall that.

10 Q. Then on June 22, you learned there were possible al Qaeda
11 suicide attacks, and the State Department issued a warning on all
12 embassies, correct?

13 A. Yes.

14 Q. You've heard the phrase that Director Tenet's hair was on
15 fire at this time, right?

16 A. Right.

17 Q. And that was correct, wasn't it?

18 A. There was a concern throughout the community, as it had been
19 since October of the prior year when the Cole was attacked, that
20 we had not been attacked, and we certainly anticipated a follow-on
21 attack, yes.

22 Q. Okay. And one of the targets that you knew was on the list
23 for al Qaeda was the World Trade Center, right?

24 A. I don't recall ever seeing the World Trade Center
25 specifically mentioned in any of the threats.

1 Q. No, as a general threat, you knew one place that al Qaeda
2 wanted to destroy was the World Trade Center in New York; isn't
3 that correct?

4 A. I can't say that's correct. I can name 100 logical targets
5 in and around Washington, D.C., and New York. It was a prior
6 target, yes.

7 Q. You knew that Ramzi Yousef had said that he just didn't have
8 enough money, and that somebody would come back and finish the
9 job, right?

10 A. The first part of that quote is accurate. The second part
11 isn't.

12 Q. You knew that they were still interested in the World Trade
13 Center as of when Mr. Yousef said that, correct?

14 A. I think you can draw that conclusion.

15 Q. Okay. And when was that?

16 A. When did he say that?

17 Q. Yeah.

18 A. When he was in an airplane being flown back from his arrest
19 in Pakistan to the embassy in New York.

20 Q. Yeah. And what year was that?

21 A. I don't recall. It was when Bill Gavin was the head of the
22 New York office. That's five generations ago. '95-'96 time
23 frame.

24 Q. Who's Ramzi Yousef's nephew?

25 A. Ramzi Yousef is Khalid Sheikh Mohammed's nephew.

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1 Q. They're relatives, right?

2 A. That would make them relatives.

3 Q. Yes. And you knew that then, didn't you?

4 A. Yes.

5 Q. And then you learned on June 30, 2001, that Bin Laden was
6 planning high-profile attacks, right? That information made it up
7 to your desk, didn't it?

8 A. We knew from before our embassies were attacked that Bin
9 Laden was consistently planning attacks.

10 Q. Now, the millennium attack that you talked about before,
11 you're not telling this jury that anything that happened at
12 headquarters in Washington resulted in the arrest of Ahmed Ressam,
13 are you?

14 A. No. Ahmed Ressam was arrested based upon not luck and not
15 happenstance but the exceptional training that Deanna Dean
16 received as a customs officer that she put into effect. That's
17 what stopped Ahmed Ressam.

18 Q. You didn't issue any "be on the lookout" or any notice to
19 her. It was just that she was doing her job. It had nothing to
20 do with what you did in Washington, did it?

21 A. That is exactly right.

22 Q. Now, another thing I want to show you, did you have a, a
23 string of reporting in your office called "Bin Laden/Ibn Khattab
24 threat reporting"?

25 A. Not that I recall.

1 MR. MAC MAHON: Show the witness Exhibit 792, please.

2 It's in our file. There's another one.

3 Q. Have you seen this before? And just to be -- sir, this
4 document has been gone through the declassification process, so it
5 may not look exactly like the original.

6 A. I don't recall seeing it prior to my preparation for today,
7 no.

8 MR. MAC MAHON: I move the admission of 792, Your Honor.
9 It has his name as one of the copies on it.

10 THE COURT: Any objection?

11 MR. RASKIN: Object. It does have Mr. Rolince's name as
12 a cc, but I don't believe a foundation has been established to ask
13 the witness questions about it.

14 THE COURT: Let me see a copy of the document.

15 MR. MAC MAHON: Your Honor, I tried to put this in
16 through somebody else, and they said, "Wait until Mr. Rolince
17 comes on the stand," and now he's here.

18 MR. RASKIN: We don't have any objection to the document
19 coming in evidence, but I think we will have a question to -- an
20 objection to asking the witness questions about it.

21 THE COURT: Would you routinely get copies of
22 communications between Dale Watson and Director Freeh?

23 THE WITNESS: Not necessarily.

24 THE COURT: The question was routinely. On a routine
25 basis, would you normally, normally see what Watson was

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1 communicating to Director Freeh?

2 THE WITNESS: Yes.

3 THE COURT: And if the distribution included Pickard,
4 Bucknam, Turchie, Jennings, Stafford, and Middleton, I assume you
5 know all those names.

6 THE WITNESS: Yes.

7 THE COURT: Would you normally be in that kind of a
8 distribution list, if they were all getting the same document?

9 THE WITNESS: Yes, Your Honor. It's traditional from
10 the analyst who wrote the document or supervisor, if he's asked
11 for a note to the director, just as a courtesy, they would put
12 everybody in the chain in between the writer and the director.

13 THE COURT: And was it your normal policy to read these
14 types of documents if you were copied on them?

15 THE WITNESS: If I could get to the 400 pages roughly
16 that came in every day, and occasionally not.

17 THE COURT: I think that's enough foundation to
18 certainly be questioned about the document.

19 MR. MAC MAHON: Thank you, Your Honor.

20 Could we put the first page of Exhibit 792 on the
21 screen, please?

22 THE COURT: You're moving it into evidence as well?

23 MR. MAC MAHON: Yes, Your Honor.

24 THE COURT: I'm letting it in. That's enough
25 foundation.

1 (Defendant's Exhibit No. 792 was received in evidence.)

2 BY MR. MAC MAHON:

3 Q. Have you seen this document before, Mr. Rolince, if you're
4 done reading? If you're not --

5 A. I am.

6 Q. Have you seen this before, now after you've had a chance to
7 read it?

8 A. I don't recall seeing this document before the day before
9 yesterday.

10 Q. Do you recall seeing any documents when you were head of ITOS
11 that were captioned as this one is, "Bin Laden/Ibn Khattab Threat
12 Reporting"?

13 A. No, I don't.

14 Q. Do you -- whose name is on the bottom of this? Who's that?

15 A. Dale Watson, he was my assistant director.

16 Q. Yeah. Who's this?

17 A. That's me.

18 Q. Did you know who Ibn Khattab was in April of 2001?

19 A. Ibn Khattab was a Chechen rebel.

20 Q. Okay. Was it brought up in your preparation for preparing
21 for your testimony today to answer questions about Ibn Khattab,
22 sir?

23 A. Ibn Khattab is fairly well-known throughout the
24 counterterrorism circles.

25 Q. He was known as someone who helped, helped Usama Bin Laden

1 with volunteers in training, correct?

2 A. Yes.

3 Q. That was well known within the FBI in the summer of 2001,
4 wasn't it?

5 A. I would say it was known within the Islamic Radical
6 Fundamentalist Unit and by certain other people following Bin
7 Laden, yes.

8 Q. Okay. So this kind of reporting doesn't surprise you that
9 Bin Laden and Ibn Khattab would be grouped as essentially
10 interconnected organizations, right?

11 A. I don't know that I'd go so far as to call them
12 interconnected. I think the reporting would indicate that there's
13 some connectivity, whether it's funds or training, but I don't
14 know that I would interconnect the Chechen rebels with `al Qaeda.

15 Q. Well, you knew that Chechen rebels were training in al Qaeda
16 training camps in the summer of 2001, didn't you?

17 A. I think we came to the conclusion that just about everyone
18 was training there.

19 Q. Including people affiliated with Ibn Khattab, right?

20 A. Possibly.

21 Q. And this, this document here indicates that they're
22 training -- Ibn Khattab is -- has -- is preparing some kind of
23 attacks with Usama Bin Laden, correct?

24 A. Yes.

25 Q. Now, how, how would someone in the FBI have found this

1 document if they were looking for -- in the summer of 2001 if they
2 were looking for information on a link between Ibn Khattab and
3 Usama Bin Laden?

4 A. If the document was uploaded into the system, which is the
5 technical term to get it off a piece of paper and into the screen,
6 they would go in and using any number of search capabilities,
7 either one of the names or both, and hopefully the response would
8 be those documents containing those names.

9 Q. Okay. And if the document was scrubbed of certain
10 information, it would just get lost in the system, right?

11 A. Scrubbed?

12 Q. Let me show you -- look at Exhibit 428, if you would.

13 MR. RASKIN: Is that in?

14 MR. MAC MAHON: I'm going to move it in in a `second.

15 With Mr. Wood's assistance, please?

16 Q. Have you seen this document before, sir?

17 A. I could have seen this document before. It's four years old.

18 Q. Who is it approved by?

19 A. Normally it's approved by the person on the top line, Tom
20 Pickard, the deputy director.

21 Q. Well, that's your name there, isn't it?

22 A. I'm in that chain. I was in that chain.

23 MR. MAC MAHON: Just a second, Your Honor. We're
24 having -- we're having a CIPA question here.

25 Your Honor, I'd move the admission of Exhibit 428,

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1 please.

2 THE COURT: Is there an objection? No? Mr. Raskin?

3 MR. RASKIN: Well, yes. I don't believe an adequate
4 foundation has been laid to ask the witness questions about it.
5 He says he doesn't remember seeing it.

6 MR. MAC MAHON: Your Honor, it says it was approved by
7 him right on it.

8 THE COURT: Is it possible that a document would
9 indicate you'd approved something without your having approved it?

10 THE WITNESS: Absolutely.

11 (Laughter.)

12 THE COURT: What's the -- how can that be proper
13 conduct?

14 THE WITNESS: The way it comes up through the system is
15 to each individual, but if I'm out of the country, then they would
16 try to find either the assistant or the deputy in the front office
17 to sign it, but if it's a communication that needs to go out,
18 ultimately the only person that needs to see it is the person on
19 the top line, Tom Pickard.

20 BY MR. MAC MAHON:

21 Q. And at that time, Mr. Pickard was the head of the FBI?

22 A. He was the acting director.

23 Q. Okay. And this document, 428, is the follow-up to the "all
24 field offices" from 792, isn't it?

25 A. I'm sorry, repeat, 792?

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1 Q. Look at 792.

2 THE COURT: Exhibit 792.

3 THE WITNESS: Oh, I'm sorry. Got it.

4 BY MR. MAC MAHON:

5 Q. Exhibit 792 is a letter to people, including you, from

6 Director Freeh, right?

7 A. Yes.

8 Q. Okay. And that gives you information about Bin Laden and Ibn

9 Khattab?

10 A. Yes.

11 Q. Okay. Let's go to the second page of 792. Maybe this will

12 help.

13 And this is a direction from the head of the FBI telling

14 the Bin Laden Unit to prepare an EC for all the field offices and

15 legats advising of the heightened threat environment, correct? Do

16 you see that?

17 A. Yes.

18 Q. Okay. And then if you look at Exhibit 428, that's what that

19 is, isn't it? That's your office doing what it was told, right?

20 A. Yes.

21 MR. MAC MAHON: Move the admission.

22 THE COURT: I'm allowing it in. That's an adequate

23 foundation. 428 is in.

24 (Defendant's Exhibit No. 428 was received in evidence.)

25 MR. MAC MAHON: All right. If you'd put the first page

1 of Exhibit 428 up, please, Ms. Bishop?

2 We need your copy back, I'm sorry, Mr. Rolince. We gave
3 you the wrong one.

4 The one that's up on the screen is right. Can we
5 proceed that way and then clear it up?

6 Q. Okay. Tell the jury what Exhibit 428 is.

7 A. 428 is an electronic communication going out to all field
8 offices, to the attention of the special agent in charge of those
9 offices, authored by an analyst in the Usama Bin Laden Unit, sent
10 up through the chain, the synopsis of which is to advise them of
11 continued aggressive and proactive efforts to counter UBL-related
12 threats in the United States.

13 Q. And if you read through this document, Mr. Pickard --
14 Mr. Pickard, excuse me, Mr. Rolince -- the Ibn Khattab connection
15 in the document that's been sent out to all the field offices is
16 missing, isn't it?

17 A. Unless it's contained in the eight or so lines that are
18 blacked out on page 3, it's not on the prior pages.

19 Q. If you can accept my representation --

20 MR. RASKIN: We stipulate that Ibn Khattab is not
21 mentioned.

22 THE COURT: All right.

23 BY MR. MAC MAHON:

24 Q. How would that happen, Mr. Rolince? Why would the
25 information about Ibn Khattab and his connections to Usama Bin

1 Laden be deleted from this document when it was sent out?

2 MR. RASKIN: Well, objection to deletion, Your Honor.

3 BY MR. MAC MAHON:

4 Q. Well, however it -- it's in one and it's not in the other.

5 Whatever the word is that you prefer, how come it's not there?

6 A. The person who authored the communication took all relevant
7 and existing information and crafted a document that he or she
8 felt told the field what it was that headquarters wanted them to
9 do, so there's probably other information that's available in that
10 assessment, in that compilation that's not in here, either. It's
11 a judgment call made by the person that wrote it, essentially.

12 Q. Okay. So is it normal practice to delete the UBL/Ibn Khattab
13 connection from documents to your knowledge?

14 A. It's normal practice when compiling a document to make a
15 decision as to what information will, in fact, go into that
16 document.

17 Q. And that would cause problems if people were searching your
18 computer trying to find a connection between Bin Laden and Ibn
19 Khattab, wouldn't it?

20 A. No, because they'd find this exhibit.

21 Q. So it would have been easy to find?

22 A. As easy as any other document, same process.

23 Q. Okay. Did you know in the -- in August of 2001 that, that
24 the director of Central Intelligence was being briefed about
25 Zacarias Moussaoui?

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1 A. Yes.

2 Q. You did know that?

3 A. Yes.

4 Q. Okay. And when did you learn that?

5 A. In my conversations with the FBI deputy who attended the 5:00
6 briefings and provided that information to him.

7 Q. Were you aware of this before September 11?

8 A. Yes.

9 Q. Okay. And what did you learn about the briefings that the
10 director of Central Intelligence was getting about Moussaoui?

11 A. They were critical to our ability to conduct the follow-on
12 plan upon arrival overseas to access the information that he did
13 not authorize us to access here in the United States.

14 Q. When was -- what meeting are you aware of that the first time
15 was the director of Central Intelligence got a briefing?

16 A. I don't have a date.

17 Q. The stipulation we read is it was August 23, 2001, sir. Does
18 that refresh your recollection?

19 A. No.

20 Q. Do you know whether the briefing that the director of the
21 Central Intelligence Agency got about Moussaoui was before or
22 after it was decided that no one would even try to get a search
23 warrant?

24 A. I would have to compare the dates. I'm not sure exactly when
25 those conversations between and among the attorneys and the people

1 in the unit took place versus the briefings relative to the
2 follow-on plan.

3 MR. MAC MAHON: Your Honor, can we put up -- and this
4 has been stipulated, it says it can be admitted without further
5 authentication -- what's stipulated in 29A? It's Defendant's
6 Exhibit 660, please.

7 THE COURT: All right, Defendant's 660 is in.

8 (Defendant's Exhibit No. 660 was received in evidence.)

9 BY MR. MAC MAHON:

10 Q. Have you seen this before, sir?

11 A. I don't believe so, no.

12 Q. Okay. Does this refresh your recollection as to when you
13 learned that the director of Central Intelligence was being
14 briefed about Moussaoui?

15 A. Well, it would make sense that --

16 MR. RASKIN: Objection.

17 THE COURT: Well, wait, there's an objection.

18 MR. MAC MAHON: It's in evidence. It's in evidence,
19 Your Honor.

20 THE COURT: I understand that, but if he hasn't seen it,
21 the only proper question is whether he -- whether this witness's
22 memory is refreshed as to the date, and if it's not then --

23 MR. MAC MAHON: I thought I asked him that, Your Honor.
24 I'm sorry.

25 THE COURT: Try it again.

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1 BY MR. MAC MAHON:

2 Q. Does seeing that document refresh your recollection --

3 MR. RASKIN: We stipulate that this is the date the DCI
4 was briefed.

5 THE COURT: All right, that's fine.

6 THE WITNESS: I think I have a logical progression. It
7 would make sense that if the FBI is considering an investigative
8 technique that is going to get us that information in the United
9 States, you're not at the point that you're using a follow-on plan
10 because there won't be a need for that plan, so, yes, the
11 conversation should have taken place in headquarters.

12 The decision would have been made probable cause does
13 not exist. Plan B then becomes the follow-on plan, which the DCI
14 is briefed on. That would be a logical progression in my mind.

15 BY MR. MAC MAHON:

16 Q. So you had more conversation about Mr. Moussaoui than the
17 20-second heads-up, sir?

18 A. No, that was how many conversations I had with Dave Frasca.
19 Dave Frasca is not part of the conversation that I'm talking
20 about.

21 Q. So you had more conversations about Mr. Moussaoui than that.
22 Who did you talk to about Moussaoui's briefing at the Central
23 Intelligence Agency?

24 THE WITNESS: Your Honor, I need a determination as to
25 whether that's classified.

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1 MR. RASKIN: Maybe the witness can just refer to the
2 individual's title as opposed to his name. Is that permissible?

3 MR. MAC MAHON: That's fine, Your Honor.

4 THE COURT: Yeah, all right.

5 THE WITNESS: He would have been the FBI detailee, and
6 the title would have been the deputy chief of Counterterrorism
7 Center.

8 BY MR. MAC MAHON:

9 Q. And it's your understanding those conversations only had to
10 do with deporting Moussaoui from the United States, correct?

11 A. They had to do with the planning of the operation that we
12 hoped to engage in with an overseas intelligence partner, and that
13 planning really couldn't go forward just between the FBI and that
14 component. It would be a role for the agency to play in that.

15 Q. Okay. Why didn't you brief the attorney general of the
16 United States about Moussaoui if you knew that the director of
17 Central Intelligence was being briefed about him?

18 A. Zacarias Moussaoui was arrested on immigration charges in the
19 United States. He was not arrested by the FBI. And the case was
20 not anywhere near fully developed. There was a plan to get access
21 to the information that we could not legally get in the United
22 States.

23 So as that plan went along further, the briefings would
24 have gone up, but I determined that the operation being worked was
25 not of sufficient progress to brief.

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1 Q. So the -- your understanding is that he was not arrested in
2 an FBI operation, sir?

3 A. The charges levied against him were immigration charges. He
4 was arrested by immigration.

5 Q. He was arrested as part of an FBI operation, wasn't he, sir?

6 A. He was arrested by immigration on immigration charges
7 following an interview by the FBI and Immigration and
8 Naturalization Service.

9 Q. All right.

10 A. I wouldn't call it an operation. It was a routine interview.

11 Q. Well, the FBI got a tip about Mr. Moussaoui in the middle of
12 August 2001, didn't they?

13 A. Yes.

14 Q. And were you told about that on or about August 15, 2001?

15 A. The first conversation I had with Dave Frasca would have been
16 when I was told about that, sure.

17 Q. Okay. So you were never told about what Agent Samit was
18 doing and what he was finding in Minnesota until you talked to
19 Mr. Frasca, and that conversation was about the plan to deport
20 Moussaoui, correct?

21 A. No. The first conversation was about the fact that they had
22 an individual arrested on immigration charges brought to their
23 attention by the flight school whose answers were not matching up
24 with the questions.

25 Q. You had a Muslim fundamentalist in the United States who was

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1 learning how to fly on jet simulators. That's what you were told,
2 right?

3 A. No.

4 Q. You were never told that?

5 A. No.

6 Q. Were you told that Agent Samit, the FBI agent, had determined
7 on August 18, 2001, that there was sufficient evidence that
8 Moussaoui was conspiring with others to commit acts of terrorism
9 transcending national boundaries?

10 A. I think what Agent Samit's suppositions and hunches and
11 suspicions were are one thing. What we actually knew at the time
12 of the arrest were clearly something else.

13 Q. Agent, on August 18, 2001, or before you talked to
14 Mr. Frasca, were you ever told that the agent on the field who had
15 conducted the investigation had written a very long document in
16 which he concluded there was sufficient evidence that Moussaoui
17 was a terrorist who was going to try to hijack a plane?

18 A. No.

19 Q. And nobody told you that the agent on the ground who was
20 doing the investigation had determined that Moussaoui was
21 possessing weapons and preparing through physical violence or
22 training for violent confrontation to incapacitate individuals on
23 aircraft and seize control of the aircraft for his own ends,
24 right? You were never told that, either, were you?

25 A. No. Can I ask what document that's coming from?

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1 Q. Sure. That's Mr. Samit's communication to your office dated
2 August 18, 2001. And it's Exhibit No. 472, if you'd like to see
3 it.

4 A. I'm just curious as to what document it was.

5 MR. MAC MAHON: I don't have any further questions, Your
6 Honor.

7 THE COURT: Any redirect?

8 MR. RASKIN: No, Your Honor.

9 THE COURT: All right. Does anybody expect to call
10 Mr. Rolince again during the course of the trial?

11 MR. RASKIN: No, Your Honor.

12 THE COURT: How about from the defense?

13 MR. MAC MAHON: I don't think so, Your Honor.

14 THE COURT: Well, this is --

15 MR. MAC MAHON: No.

16 THE COURT: All right. Then, sir, you're excused as a
17 witness. You're free to go. We thank you for your testimony. Do
18 not discuss anything that you've said in court with any witness
19 who has not yet testified.

20 THE WITNESS: Thank you, Your Honor.

21 (Witness excused.)

22 THE COURT: All right. Your next witness, Mr. Novak?

23 MR. NOVAK: Pascal Schreier, please.

24 GUIDO ALEXANDER PASCAL SCHREIER, GOVERNMENT'S WITNESS, AFFIRMED

25 MR. NOVAK: Judge, may I proceed?